

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

LUCKY COMPANY, a New Jersey partnership,
ROBIN EASTERN, MUNCHKINS, a partnership,
IRVING B. KAHN FOUNDATION, INC., a
Delaware corporation, WENDY WOLOSOFF-
HAYES, BRIAN CLEARY, PETER J. CLEARY,
LESLIE READ, SCOTT H. READ, CHARLES
READ, JOSEPH S. EASTERN 2004
IRREVOCABLE TRUST, a New Jersey trust, and
JOSEPH S. EASTERN, as trustee and as an
individual,

Defendants.

Adv. Pro. No. 10-04490 (SMB)

**STIPULATION AND ORDER DISMISSING WITHOUT
PREJUDICE DEFENDANT SCOTT H. READ**

WHEREAS, on December 2, 2010, Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et. seq.*, and the substantively consolidated estate of Bernard L. Madoff (“Madoff”) individually, filed a Complaint against

Lucky Company, Scott H. Read (“Read”), and others (the “Action”) (Adv. Pro. No. 10-04490 (SMB)); and

WHEREAS, the Trustee alleged that the defendants in the Action received certain avoidable transfers from BLMIS, among other claims; and

WHEREAS, defendant Read represents as follows:

1. In or about 2001, my father, Leslie Read, invested \$5,000 cash for me in an account with Lucky Company.

2. In or about 2003, I made a deposit of \$20,000 cash into my account with Lucky Company, making my total investment \$25,000. I did not invest any other money with Lucky Company.

3. I never withdrew or received any money from Lucky Company and never directed anyone to withdraw money on my behalf.

4. I am informed and believe that Lucky Company in turn invested with BLMIS. I never invested directly with BLMIS and never received any money from BLMIS.

5. I lost the entire \$25,000 I invested with Lucky Company.

6. I received K-1’s from Lucky Company. I never received K-1’s or any other documents from BLMIS.

WHEREAS, in support of defendant Read’s position, he has provided the following documentation to the Trustee:

1. 2001 Schedule K-1 issued by Lucky Company to defendant Read.
2. 2002 Schedule K-1 issued by Lucky Company to defendant Read.
3. 2003 Schedule K-1 issued by Lucky Company to defendant Read.
4. 2004 Schedule K-1 issued by Lucky Company to defendant Read.
5. 2005 Schedule K-1 issued by Lucky Company to defendant Read.

6. 2006 Schedule K-1 issued by Lucky Company to defendant Read.
7. 2007 Schedule K-1 issued by Lucky Company to defendant Read.
8. 2008 Schedule K-1 issued by Lucky Company to defendant Read.
9. An accounting prepared by Lucky Company showing capital contributions and no withdrawals, as well as cancelled checks supporting the capital contributions.

IT IS THEREFORE MUTUALLY AGREED AND STIPULATED, by and between the Trustee and defendant Read as follows:

1. The representations in the foregoing “whereas” clauses shall be deemed material to this stipulation and agreement (this “Agreement”).
2. Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) and Fed. R. Bankr. P. 7041, the Trustee and defendant Read hereby stipulate that the Trustee’s claims against defendant Read in the Action are dismissed without prejudice and without costs to either the Trustee or defendant Read.
3. Notwithstanding the foregoing, defendant Read and the Trustee agree that, in exchange for the Trustee’s entering into this Agreement and dismissing defendant Read, this Agreement shall also operate as, and is, a tolling agreement, whereby, should any court determine that defendant Read is a necessary party to the Action, or to perfect and/or enforce any of the Trustee’s claims in connection with the Action, or if any of the representations in this Agreement are false, the Trustee shall be permitted to assert any avoidance and/or other claims available under the Bankruptcy Code or SIPA with respect to defendant Read in connection with the BLMIS Account at issue in the Action, within six (6) months of such ruling or the period provided for under section 550(f) of the Bankruptcy Code, whichever is longer, determination or other notice by the Trustee, notwithstanding section 546(a) of the Bankruptcy Code, and defendant Read hereby agrees to waive any statute of limitations defense in any such actions or

claims commenced by Trustee.

4. Upon the dismissal of defendant Read, the caption of the Action is hereby amended to delete defendant Read from the caption. The amended caption of the Action shall appear as indicated in Exhibit A to this stipulation.

5. This Agreement may be signed by the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this stipulation shall be deemed an original.

6. Defendant Read has reviewed and discussed this Agreement with counsel.

(Remainder of page intentionally left blank.)

Dated: New York, New York
April 22, 2014

Of Counsel:

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*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities
LLC and the Estate of Bernard L. Madoff*

/s/ Scott H. Read

Scott H. Read
Defendant

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Attorneys for Defendant Scott H. Read

Dated: New York, New York
May 1st, 2014

SO ORDERED

By: /s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

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HAYES, BRIAN CLEARY, PETER J. CLEARY,
LESLIE READ, CHARLES READ, JOSEPH S.
EASTERN 2004 IRREVOCABLE TRUST, a New
Jersey trust, and JOSEPH S. EASTERN, as trustee
and as an individual,

Defendants.